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All Scientific Papers submitted for Publication must be Typewritten.

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EDITORIAL NOTES

PREPAREDNESS

Do you want complete protection against every malicious attack in the way of a suit for damages for alleged malpractice?

If so, read the Editorial notes on this subject in the July Journal—and act upon the advice.

Or write the Secretary, Dr. Philip Mills Jones, for information.

X-RAY PLATES AND NEGLIGENCE.

Some time ago, when the House of Delegates of the State Society wisely made the rule that the Society would not defend a member in an action for damages for alleged malpractice against him, when in the nature of the case an X-ray plate should have been taken and kept and was not so taken and kept, the JOURNAL published some items to the effect that before very long courts would consider it negligence not to take such plates. The truth of that prophecy is being made manifest very rapidly. In a case in Minnesota not very long ago, a judgment of $2000 was awarded against a physician for negligence in the treatment of a fracture of the leg, between the knee and ankle, and this judgment was sustained by the Supreme Court. In reading over the judgment of the Court, one is very much impressed with the fact that the Court leans to the idea that the failure to take an X-ray plate might justly have been regarded by the jury as an indication of a lack of proper care, skill and judgment in the treatment of the case. In fact, the Court says: "It was not error to permit the questions to the experts in regard to the propriety of taking Roentgenograms. While this was not specifically alleged as a charge of negligence, the complaint contained a general allegation of negligent treatment and the Court thinks this evidence was properly received." There are several other decisions within the last couple of years, all trending in the same general direction, and it is safe to say that within the next few years it will become a recognized rule of law that when injuries to bones are involved and there is possibility or probability of fractures, dislocations and the like, the failure to make and keep X-ray plates will be considered negligence.

Quite recently one of our members here in California was obliged to defend a suit against him at his own expense, because he could not, or would not, offer any explanation of why he had not taken an X-ray plate.

THE VERDICT AGAINST THE A. M. A.

Quite a little inquiry has reached this office in regard to the meaning of the "one cent verdict" against the American Medical Association and in favor of the Wine of Cardui people. Judgments of this kind are always somewhat confusing. One of the most celebrated libel suits in this country was that of Henry Ward Beecher against the *Brooklyn Daily Eagle,* a newspaper printed in Brooklyn, N. Y., which published some articles referring disparagingly to Mr. Beecher's personal relations with a woman. The suit attracted a great deal of attention, but the jury brought in a verdict of two cents damages. This was interpreted as meaning that everything the paper said was true, but that it ought not to have said it just the way it did. In this present suit, the whole case turned upon the interpretation of the word *fraudulent.* About as near to a clear idea of what the verdict really means as one can give in ordinary language, is contained in the *Chicago Herald* for Saturday, June 24, 1916, as follows:

THAT ONE-CENT VERDICT.

The one-cent verdict returned by the jury in the Wine of Cardui case against the American Medical Association teases us to thought—as did the six-cent verdict returned some time ago in Colonel Roosevelt's celebrated suit against an editor in Michigan.

Both sides claim it as a victory. The defendant feels that, in view of the large amount demanded, a verdict of one cent is equivalent to a verdict in its favor. The plaintiff, on the other hand, concerned not only with the damages sued for but presumably with the good name and reputation of the preparation, thinks that even a one-cent verdict is a vindication.

As the jury has so far shed no particular light on the psychology responsible for the decision, we must assume that it thought the American Medical Association was wrong but not wrong enough to hurt and that the plaintiff was right but not right enough to help very much.

Incidentally, and irrespective of the merits of this particular case, it is permissible to suggest that the American Medical Association will hardly find its prestige diminished among good citizens by its opposition to the sale of proprietary medicines containing a marked percentage of alcohol.

WHEN YOU SUE AN ESTATE FOR YOUR ACCOUNT.

In considering this little suggestion in regard to the law in the State of California covering matters referred to in the above title, please do not say—"The law is all wrong; it ought to be different!" There is a great sameness about that remark, and it has nothing to do with the case, because whether you like a law or not has nothing to do with the fact that it *is* the law, and if you intend to live here you have to live under the control of the laws of the state.

In California the law provides that parties, or assignors of parties, to an action against an executor or administrator of the estate of a deceased person, may not testify as to any matter of fact occurring before the death of such deceased person. Now, that means just this: If your patient dies, and the executor or administrator refuses to settle your bill, and you bring suit against him for the amount of the bill, you yourself cannot testify as to the services rendered. You must have some other witness, or some other tangible evidence, in addition to your accounts. Not very long ago, in this state, exactly this situation arose and the doctor got a judgment in the trial court which was reversed and thrown out by the Supreme Court, solely because the doctor introduced no other evidence than his own and his account book. His account was apparently just, and there seemed no reason why it would not have been allowed had he complied with the law.

SOCIAL INSURANCE.

To Members of the State Medical Society:

Dr. I. M. Rubinow, the author of "Social Insurance," who has come to California to assist in the work of the Social Insurance Commission appointed by Governor Johnson, met with the latter commission and with our committee on July 8. Those present besides Dr. Rubinow were Miss Katherine Felton, Mrs. Frances Noel, Mr. George Dunlop, Dr. Flora W. Smith, Miss Barbara Nachtrieb, Drs. Sherman, Reinle, Gundrum, Tucker and Bine representing our committee; Drs. P. M. Jones and Morton Gibbons. That there is a great deal of work to be done, many statistics to be compiled, and much to be discussed, can readily be imagined. This meeting lasted for four hours, and the discussions showed us how few actual facts pertaining to California conditions are now available.

It will be necessary for us in our study of sickness and of health insurance in this state, to get at certain figures. They are not only essential to us for our study; they are essential to you—for your protection should the state eventually decide in favor of social insurance. There is no reason why the same methods should be enforced with health, as have been applied with accident insurance. With the accident compensation the lowest possible premiums are charged, so as to make the scheme attractive to employers. After deducting for administration, cash benefits to the injured, and in the case of private companies, for dividends to stockholders, the question of paying the doctor comes up. He gets what is left.

Now in health insurance, provided we can get the necessary statistics, and provided the profession is reasonable in its attitude, there is no reason why matters cannot be reversed. Let us find out how much doctors now earn, and of this, how much they actually collect. Let us know how much they really deserve, how much they need to live up to professional standards and still put aside enough for old age. Let us also know how much work they can do and do well. Then let us determine how much they should be paid under a scheme of health insurance, and then let actuaries calculate what the rates or premiums should be. If they are satisfactory to the insured, the employers, and the state, well and good; if not—well, it is too bad, but health insurance in this state will not work!

Questionnaires will soon be forwarded to every member of the State Society. It is hoped that answers will be promptly returned.

The interest in social insurance is not purely a medical one, nor a local one. The Commonwealth Club Committee meets every Friday from 4 to 6 p. m. On Saturday, July 15th, at its usual weekly luncheon, Dr. I. M. Rubinow addressed the Club in open meeting. An invitation to attend the luncheon was extended to the San Francisco County Medical Society; some sixty or more attended. We had hoped that more doctors would come. The notices were sent a bit too late; this, perhaps, explains the apparent apathy of the profession.